



Washington, D.C. 20505

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OCA 2643-88

10 AUG 1988

Mr. James C. Murr
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

I write in response to a 28 July 1988 memorandum from the White House regarding drug legislation. Copies of this letter are being sent to the appropriate "lead agencies" as indicated in the attachment to that memorandum.

"Drug Czar"

The principal provision of concern to us in this legislation is the so-called "drug czar" provision. Current law provides that neither the Drug Policy Board nor its Chairman shall take action inconsistent with the powers and duties of the Director of Central Intelligence under statute or Executive Order, 21 U.S.C. §1203(d). This provision was included in earlier drug legislation (S. 789) and is retained in H.R. 4916, the House Judiciary Committee's contribution to the House Democratic leadership's omnibus bill. It appears, however, to be missing from the latest drafts of the "Byrd" and "Dole" Senate omnibus bills. We trust that in its discussions with the Congress on the "drug czar" portion of the bill, the Administration will support retention of this important provision.

R&D Centers

S. 2205 contains two provisions concerning Intelligence Community Research and Development (R&D) centers, Sections 601 and 602, to which we previously objected (19 April 1988 letter - copy enclosed). Section 4501 of the "Byrd" draft, although it deletes Section 602 and modifies Section 601, remains nonetheless objectionable in that it continues to provide for the possible diminution of already scarce Community R&D

resources and for Comptroller General involvement in this area, something which the Agency has firmly and consistently opposed. If this provision is not deleted in its entirety, Intelligence Community R&D centers must be excluded from its scope.

Amendments to "Intelligence" Statutes

Section 3081 of H.R. 4842 amends Title V of the National Security Act of 1947 and Section 3082 amends the Foreign Intelligence Surveillance Act. As noted in our 7 July 1988 letter to your office (copy enclosed), we are opposed to both provisions.

Funding Issues

Title X of S. 2205 would revise the federal debt collection system by vesting a significant degree of authority vis a vis individual agency contract accounts in a central debt collection system. As noted in our 19 April letter, we are opposed to this provision. Accordingly, we ask to be notified if the Administration agrees to adopt this approach as an element of an overall omnibus bill since we would then require a provision to protect our concerns.

We will continue to monitor this legislation and work with all interested parties vis a vis any other provisions of concern which may arise.

Thank you for the opportunity to comment on this important legislation.

Sincerely,



John L. Helgersen
Director of Congressional Affairs

Enclosures
As Stated

OCA 2643-88

SUBJECT: Letter to Mr. Murr (OMB) regarding "Drug Czar"
legislation

OCA/LEG, [REDACTED] (5 August 1988)

Distribution:

Original - Addressee

- 1 - Frances A. Keating II, Department of Justice
- 1 - Donald Ian MacDonald, Drug Abuse, and Mental
Health Administration
- 1 - Carol Crawford, Office of Management and Budget
- 1 - Barry Kelly, National Security Council
- 1 - David Addington, Office of Legislative Affairs
- 1 - Mark Greenburg, Office of Legislative Affairs
- 1 - Sam Brick, Department of Defense
- 1 - [REDACTED] National Security Agency
- 1 - Jay Apperson, Department of Justice
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Washington, D.C. 20505

49 APR 1988
OCA 88-1188

James C. Murr
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

I write in response to your Legislative Referral Memorandum of 29 March 1988 seeking the views of the Director of Central Intelligence on S. 2205 and S. 2206.

We have no comment on S. 2206 nor on any of the provisions of S. 2205, save those noted below.

Section 601 of S. 2205 mandates the establishment of a "Research and Technology Group" under the National Drug Policy Board (established in 1984 under the provisions of Public Law 98-472, 21 U.S.C. §1201 et seq, and modified by Executive Order 12590, 26 March 1987). The Group would be responsible for reviewing the research, development, technology and evaluation programs of the Department of Defense (DoD) and other federal agencies to assess their applicability to the operations, programs and missions of federal law enforcement agencies.

Under the Group would be established a "Research, Technology and Acquisition Advisory Board". Composed of private sector, academia and governmental representatives, it would make recommendations to the Group on the application of research and development programs to the missions of federal law enforcement agencies and review the ongoing operations of federal agencies. In addition, this Board would serve as an "advocacy group" for the "National Technology Development Centers" to be established by Section 602 of the bill.

The goal of providing more research and development assistance to the anti-drug efforts of federal law enforcement agencies is a laudable one. The Director of Central

Intelligence fully supports this goal and, as a sitting member of the National Drug Policy Board, supports Board policy in this area. The National Drug Policy Board would appear, though, to have sufficient authority to create subordinate administrative entities to assist it in achieving this goal. Thus, we question whether it is necessary to create them by statute. We defer to the Board, however, as to whether Section 601 is objectionable for this reason. We do have a separate concern, though, with the extent of the powers and duties of the subordinate entities to be created by Section 601 which will be discussed below.

Section 602 directs the President to establish within eight specified federal agencies "National Technology Development Centers" to provide research and development support to federal law enforcement activities. Among the agencies listed are the Central Intelligence Agency and the National Security Agency. Revision of the affected agencies' statutory charters to accommodate this result would be mandated. A separate, dedicated budget system for these activities would be established and the Comptroller General (General Accounting Office) would be instructed to monitor the entire process and report periodically to the Congress.

In effect, Section 602 bypasses the normal, Executive/Legislative budget process to carve out of already scarce Intelligence Community budget resources a separate, non-intelligence activity. To begin with, this would obviously detract from important national intelligence research and development priorities already set by the Congress and the Executive. In addition, the statutory creation of such hybrid activities runs contrary to sound budget and management policy.

More importantly, the establishment of a system of entities within the Intelligence Community dedicated by statute to non-intelligence activities undermines the flexibility which the DCI currently enjoys with respect to deployment of intelligence resources. This is aggravated by subsection (a) of Section 601 which vests in the "Research and Technology Group" (to be created under the Board) the power and duty to review Agency and Community R&D activities and assess their applicability to law enforcement activities. The importance of permitting the DCI to cooperate in the war on drugs while otherwise preserving his flexibility was deemed of sufficient value by Congress that a provision preserving that flexibility was specifically included in the statute which established the National Drug Policy Board. 21 U.S.C. §1303(e). Section 602, especially when coupled with Section 601(a), undermines this flexibility and is thus objectionable.

We also note that under both sections the number of persons with access to very sensitive activities would proliferate, increasing the difficulty of protecting sensitive intelligence sources and methods from unauthorized disclosure.

Finally, we would object to Section 602 in that it grants to the Comptroller General the power and duty to oversee the creation of these Centers. The Agency has set forth on numerous occasions its opposition to making intelligence matters subject to General Accounting Office audit and is, for the same reasons, opposed here.

These concerns would, of course, be removed were all references to the Central Intelligence Agency and the National Security Agency struck from Section 602.

With respect to Section 1005, "Federal Debt Collection", we are concerned that its rather broad thrust and scope could interfere with the Agency's special statutory authorities and with its ability to conduct intelligence activities. Before commenting further, however, we would like to review the comments of other agencies on the provision.

We appreciate the opportunity to comment on this important piece of legislation. We will continue to monitor it and look forward to the opportunity to review the written comments of other agencies and the final Administration position statement on the bill.

Sincerely,

John Helgerson
Director of Congressional Affairs

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OCA 2643-88

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legislation

OCA/LEG/ [redacted] (5 August 1988)

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Washington, D.C. 20505

OCA 2263-88

07 JUL 1988

Mr. James C. Murr
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

This is in response to your request for the views of the Central Intelligence Agency on H.R. 4842, the "Comprehensive, Anti-Drugs Act of 1988." The Agency has no objection to any of the provisions save those noted below.

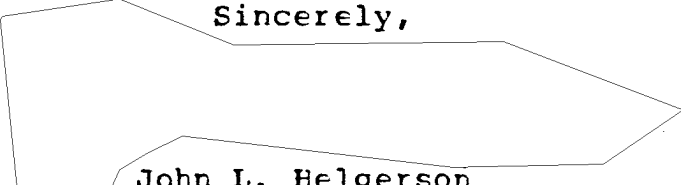
Section 3081 of H.R. 4842 purports, by amending Title V of the National Security Act of 1947, to create the authority for the government to engage in "special activities" (that is, covert actions) against "illicit international drug trafficking." We believe Section 3081 is unnecessary as there already exists ample legal authority for such activities, if otherwise funded and approved. Moreover, we think it unwise to focus attention on Title V at this time when the Administration is in negotiations with Congress over intelligence oversight amendments to it.

Section 3082 would amend the Foreign Intelligence Surveillance Act (FISA) so as to remove the restrictions FISA otherwise places on intelligence-collection activities directed against narcotics trafficking. The Agency is opposed to this provision. We believe any benefit gained would be outweighed by the risks to the Executive Branch of opening up FISA to amendment.

As with many of the omnibus, anti-drug bills currently before the Congress, this bill contains several of the so-called "drug-free workplace" provisions. While we have no objection to these proposals as they currently stand, we will continue to monitor them to ensure that any final version has no unintended, adverse effects on Intelligence Community equities.

Thank you for the opportunity to comment on this important legislation.

Sincerely,


John L. Helgersen
Director of Congressional Affairs

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